



HABIT-FORMING DRUGS

LETTER

FROM THE

ACTING SECRETARY OF THE TREASURY

TO THE

SECRETARY OF STATE

RELATING TO THE BILL (H. R. 6282) REGU-
LATING THE TRAFFIC IN HABIT-FORMING
DRUGS, NOW PENDING IN THE SENATE



PRESENTED BY MR. THOMAS
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HABIT-FORMING DRUGS.

TREASURY DEPARTMENT,
Washington, April 16, 1914.

The SECRETARY OF STATE,
Washington, D. C.

SIR: Referring to the conference between representatives of your department and this, upon the proposed amendments to the bill H. R. 6282, regulating the traffic in habit-forming drugs, now pending in the Senate, I have the honor to advise you that the extension of the provisions of the bill to the insular possessions of the United States appears to be impracticable, for the reason that the bill is drawn as an internal revenue measure and the Commissioner of Internal Revenue is charged with its enforcement, while, except as to Hawaii and Alaska, which form a part of the internal revenue system of the United States, that system and the internal revenue laws of the United States are not applicable beyond its continental boundaries. The Philippines, Porto Rico, the Canal Zone, etc., have local systems of administration and government capable of handling the question each for itself, the Philippines in particular having already effective local legislation covering the subject.

It is also believed that the provision requiring the registration of manufacturers of and dealers in hypodermic syringes does not add to the strength of the bill, for the reason that it largely increases the number of places demanding supervision, rendering it less effective, while if the provisions regulating the distribution of the drug itself are effective, the supervision of the distribution of instruments for administering it appears unnecessary.

The bill as passed by the House appears to embody the fruits of careful study and consideration by Government officers and departments concerned with the subject running over several administrations and appears to be demanded in the interests of the public health and morals.

Respectfully,

CHARLES S. HAMLIN,
Acting Secretary.

[Inclosure.]

amend H. R. 6282, Senate Calendar 213, as follows:
page 1, line 3, substitute the word "July" for the word "January."
This amendment is necessary from the Treasury Department point of view because the fiscal year begins on July the 1st of each year.
In lines 1 to 3, inclusive, page 2, strike out the words "or hypodermic syringes or needles adapted to administer any of the above drugs." The reasons for striking out the committee's amendment are as follows: The bill is designed to control the use of narcotics. If ineffective in the control of such drugs, it is wholly unnecessary to

regulate the instruments by which they are administered. Further the committee's amendment would make it necessary for all manufacturers of any kind of a hypodermic syringe or needle to register under the act. To this the Internal Revenue Bureau of the Treasury Department is opposed, because of the great labor that would be required and the unnecessary records that would have to be kept thus adding greatly to the expense of administering the act.

In line 12, page 2, strike out the words "or articles."

In lines 23 and 24, page 2, strike out the words "or articles."

In line 5, page 3, strike out the words "or articles."

In line 21, page 3, strike out the words "or articles."

In line 22, page 3, strike out the words "article is" and insert the words "drugs are."

In lines 1 and 2, page 4, strike out the words "or articles."

In line 6, page 4, reinsert the word "and" between the words "district" and "municipal" and strike out the words "and insular."

In line 9, page 4, strike out the words "or articles."

In line 25, page 4, substitute the word "drugs" for the word "drug" where it occurs.

In line 4, page 5, strike out the word "pharmacist" and insert the word "dealer."

In lines 10 and 11, page 5, strike out the word "pharmacist" and insert the word "dealer."

In line 12, page 5, strike out the word "each" and insert the word "such."

In line 18, page 5, strike out the words "or any territory."

In lines 19 and 20, page 5, strike out the words "or any of the insular possessions of the United States of America."

In line 10, page 6, after the word "district," insert the following: "*Provided*, That such forms shall be furnished by the collector without cost to the officers of the United States Government or the State governments who are lawfully engaged in making purchases of the aforesaid drugs for the various departments of the Army and Navy and for Government and State hospitals."

In line 23, page 6, strike out the words "or articles."

In line 1, page 7, strike out the words "or articles."

In line 3, page 7, strike out the words "or articles."

In line 11, page 7, strike out the words "and articles."

In line 21, page 7, strike out the words "or articles."

In lines 22 and 23, page 7, strike out the words "or any insular possession of the United States of America."

In lines 24 and 25, page 7, strike out the words "or any insular possession of the United States of America."

In line 2, page 8, strike out the words "or articles."

In line 5, page 8, insert between the words "or" and "in" the words "to any person in possession of such drugs for his own use who has obtained such drugs."

In lines 20 and 21, page 8, strike out the words "or any insular possession of the United States of America."

In line 24, page 8, strike out the words "or articles."

In lines 4 and 5, page 9, strike out the words "or any insular possession of the United States of America."

In lines 14 and 15, page 9, strike out the words "or any insular possession of the United States of America."

In line 18, page 9, strike out the words "or articles."

In lines 16, 17, and 18, page 10, strike out all the words in italics.

In lines 7 and 8, page 11, strike out the words "or articles."

AMENDMENTS SUBMITTED BY THE NATIONAL DRUG TRADE CONFERENCE.

[H. R. 6282, Senate Calendar No. 213, Report No. 258.]

The executive committee of the National Drug Trade Conference respectfully submit the following amendments, which the committee believes can be made upon the floor of the Senate without delaying the passage of the bill, and which the committee also believes the House will readily concur in:

Page 1, line 1: Make "January" read "October." The necessity for this change is obvious. Before the act can take effect provision must be made for registering and issuing official order blanks to from 250,000 to 300,000 manufacturers, dealers, physicians, dentists, and veterinarians. If the measure is passed soon, October 1 will give ample time.

Page 2, lines 1, 2, and 3: The conference regrets the Senate committee's amendment to include "hypodermic syringes or needles adapted to administer any of the above drugs," and urges its elimination.

If the bill is effective with reference to the drugs coming under its operation, the provision respecting hypodermic needles, etc., is not needed. If the bill is not effective the provision is useless. The victim may be absolutely deprived of the hypodermic syringe and yet take morphine by the mouth in pill or tablet form. Indeed, this is now the customary method, while cocaine and heroin are usually "snuffed."

Insert after the word "drugs," in line 3, page 2, the words "except veterinary hypodermic syringes and needles, and hypodermic syringes and needles designed and used for the administration of serums, vaccines, toxins, and analogous products."

Page 2, line 18: Note typographical error in the word "*Provided*."

Page 2, lines 20, 21, 22, 23, 24, and page 3, lines 1 and 2, strike out all after the word "section" in line 20 to the end of the paragraph on page 3, line 2, and insert in lieu thereof the following:

Provided further, That officers of the United States Government who are lawfully engaged in making purchases of the above-named drugs [and articles] for the various departments of the Army and Navy, and for Government hospitals and prisons, and officers of any State government, or of any county or municipality therein, who are lawfully engaged in making purchases of the above-named drugs or articles for State, county, or municipal hospitals or prisons, and officials of any territory or insular possession of the United States who are lawfully engaged in making purchases of the above-named drugs for hospitals or prisons therein shall not be required to register and pay the special tax as herein required.

This suggestion is made to meet a criticism submitted by Mr. Samuel R. Rosengarten, an attorney of Philadelphia, Pa., much interested in the subject. Mr. Rosengarten writes:

The bill as amended provides that officers of the United States Government or State governments who are lawfully engaged in making purchases for the various departments of the Army and Navy and for Government and State hospitals shall not be

required to register and pay the special tax. We think this does not help matter any, as the amendment does not relieve manufacturers and dealers from the obligation of selling on official order forms only; that is to say, manufacturers and dealer will still be under the obligation of requiring an official order blank from Government and State officials, notwithstanding the amendment.

The suggested amendment is Mr. Rosengarten's in part. Mr. Rosengarten's amendment, however, contemplated that the officials named must register, but without paying the tax, and receive official order blanks without cost. It is suggested that while the above criticism is well founded, it can be more readily met by the above amendment in connection with other slight amendments that will appear hereafter.

Page 3, line 3, insert, after the word "person," the words "obliged to register under the terms of this act." The act requires everyone having anything to do with the production, manufacture, sale, giving away, or dispensing to register, and then excepts certain officers of the Federal and State Governments. The insertion of these words will obviate any question of the right of these officers to dispense or give away those drugs which they may purchase without registering.

Page 3, lines 5 and 21: If the hypodermic syringe provision is stricken out, then strike out the words "or articles."

Page 4, lines 1 and 2, also line 9: If the hypodermic syringe provision is stricken out, then strike out the words "or articles."

Page 4, line 19: If the hypodermic syringe provision is not stricken out, insert the words "or articles" after the word "drugs."

Page 4, line 20: Strike out the words "registered under this act." This suggestion is made to meet a very pertinent objection raised by the retail drug trade of the country. There is probably no State in the Union where it is lawful for a retail druggist to dispense a prescription calling for any drug coming under the operation of this bill unless it be the prescription of a physician qualified by the laws of the State to practice medicine. The burden which the State law puts upon the retail druggist of knowing that the doctor is so qualified is thought to be heavy enough, without adding to it the burden of knowing that the doctor is also "registered under this act." The elimination of these words will remove this risk without weakening the bill in any respect, since practically every physician will have registered.

Page 5, line 2: After the word "act" add the following provision:

Provided also, That a record of the drugs thus dispensed shall be made in a suitable book kept for that purpose and shall be preserved for two years in such a way as to be readily accessible to inspection by the officers, agents, employees, and officials hereinbefore mentioned.

The bill as the House passed it exempted the physician from the operation of the law only with respect to patients he personally attended. The Senate committee has amended the bill so as to make it possible for a physician to send to a patient whom he has not seen but whom he has been specially employed to prescribe for. It is argued that this amendment is necessary to provide for emergencies that the physician otherwise might not feel at liberty to meet. The amendment, however, opens a way for illegal traffic by mail or express under the guise of prescribing for and supplying to distant patients. The above addition to the paragraph is designed to control this evil.

Surely if the manufacturer or wholesale purveyor must keep a record in the form of official order blanks he is required to preserve, and the purchaser and dealer must keep a record in the form of duplicates of the orders he has sent and the druggist a record of his sales in the form of prescriptions he has filled, then the doctor who occasionally dispenses should keep a record of what he has dispensed to check against what he has purchased.

Page 5, lines 4 and 17: If the hypodermic syringe provision is not eliminated, insert the words "or articles" after the word "drugs."

Page 5, lines 5 and 10: Make the word "pharmacist" read "dealer." There are two reasons why this change is urged:

First. The word pharmacist is not used in the bill in any other connection. It has a technical meaning and might be construed in some jurisdictions to exclude the term "retail druggist." This bill is not intended either to grant or restrict to anyone the power to fill prescriptions, which is properly a police function of the State.

Second. It has been suggested that while the bill requires all to submit to like exactions, it gives privileges to "pharmacists" which it withholds from all others, and that this amounts to an unconstitutional discrimination.

Page 5, line 11: Strike out the letter "s" in the word "prescriptions."

Page 5, line 12: Make the words "each prescription" read "the same."

Page 5, after subsection (c), add the following:

(d) To the sale, barter, exchange, or giving away of any of the aforesaid drugs or articles to any officer of the United States Government, or any State, county, or municipal government lawfully engaged in making purchases thereof for the various departments of the Army and Navy, and for Government, State, county, or municipal hospitals or prisons.

Previous amendments have exempted the officers named from the necessity of registering and obtaining official order blanks. This provision is intended simply to make it clear that it will be lawful for manufacturers and dealers to sell to such officers, etc., without the official order blank.

Page 6, line 23: If the hypodermic syringe provision is eliminated, strike out the words "or articles."

Page 7, line 5: If the hypodermic syringe provision is eliminated, make the word "articles" read "drugs"; if not, insert the words "drugs or" after the word "said."

Page 7, lines 1, 3, 11, and 21: If the hypodermic syringe provision is eliminated, strike out the words in italic.

Page 7: Insert after the first paragraph and between lines 5 and 6 the following:

The provisions of this act shall apply to the United States of America, the District of Columbia, the District of Alaska, the Territory of Hawaii, the insular possessions of the United States, and the Canal Zone. In Porto Rico and the Philippine Islands the administration of this act, the collection of the said special tax, and the issuance of the order forms specified in section two shall be performed by the appropriate internal-revenue officers of those Governments, and all revenues collected hereunder in Porto Rico and the Philippine Islands shall accrue intact to the general governments thereof, respectively. The courts of first instance in the Philippine Islands shall possess and exercise jurisdiction in all cases arising under this act in said islands. In the Canal Zone the administration of this act, the collection of the said special tax, and the issuance of the order forms specified in section two shall be performed by such officer or officers in said Canal Zone as the President may designate for that purpose. The

courts of the Canal Zone having jurisdiction of crimes and offenses committed in said zone shall have jurisdiction to hear, try, and determine all actions and proceedings in which any person shall be charged with having violated any of the provisions of this act within the limits of said Canal Zone.

This provision is submitted by Mr. Samuel R. Rosengarten, who writes respecting it:

In order to explain the inclosed form of clause I would say that a search among the Federal statutes seems to show that the United States internal-revenue laws apply to the Territory of Hawaii and the District of Alaska. In those two localities there are internal-revenue districts and internal-revenue collectors. Also United States district courts. But in the Philippine Islands, Porto Rico, and the Canal Zone the United States internal-revenue laws do not apply, and there are no Federal internal-revenue districts or collectors. There are no United States district courts in the Philippines, but in the Porto Rico there is a United States district court. You will see that it was necessary, therefore, in framing the clause, to bestow jurisdiction in the Philippine Islands on the local courts there, and as regards the Canal Zone, on the local courts there. As you know, the government of the Canal Zone is confided to the President of the United States.

I have been unable to ascertain if there are any Federal courts or Federal collectors of internal revenue in Guam and Tutuila, so I am at a loss to suggest what local officials should be specified to act in place of the collector of the district, or what courts should be given jurisdiction of cases arising under this act in those islands.

Page 8, lines 2 and 24: If the hypodermic syringe provision is eliminated, strike out the words "or articles."

Page 8, lines 5 to 11, inclusive: Strike out all after the word "act" to the end of the section and insert in lieu thereof:

or to any person who shall deliver any such drug or article which has been prescribed or dispensed by a physician, dentist, or veterinarian who has been specially employed to prescribe for the particular patient receiving such drug or article.

It will be observed that this amendment does not change the effect of the section, but makes its meaning clearer and brings the language of the act in conformity with the corresponding provision of other sections.

Page 10, line 5: Make the word "one-twelfth" read "one-fourth." The committee regard this as important. One-twelfth of a grain of heroin to a fluid ounce of mixture is absolutely valueless. In several States a maximum of one-half is allowable. An official preparation contains one-third. In most of the States the maximum is one-fourth and in a few as low as one-sixth. Fluid mixtures containing small proportions of heroin are not used by habitués who invariably "snuff" the drug. It is conceived to be the purest dogmatism to say that the habit was ever contracted from the administration of a mixture such as are usually used in the treatment of coughs. One-fourth of a grain to the fluid ounce is equivalent to about one-thirty-second of a grain to the fluid drachm, the average dose of a liquid mixture. The maximum medicinal dose of heroin is one-half grain.

Inasmuch as the law is intended to support the laws of the several States rather than to exercise a police power under the guise of a revenue measure, it is urged that the fact that a very large majority of the States exempt a maximum of one-fourth grain to the fluid ounce should induce Congress to make the change as suggested.

Page 10, lines 16, 17, and 18: Strike out the provision printed in italics. It is thought that this Senate amendment was not carefully considered. Necessarily, under the food and drugs act of June 30, 1906, the labels of all drug packages must show the actual content of any item coming under the operation of this bill. Section 12 of

his bill specially provides that the act shall not be construed to impair, alter, amend, or repeal any of the provisions of the food and drugs act of June 30, 1906. The only effect this provision in this bill will have, therefore, will be to require the druggist, when filling the physician's prescription, to ascertain in the best way he can the quantity of the "drug herein mentioned" contained in the resulting mixture, something which the law of his State, in most cases, expressly exempts him from doing. From time immemorial it has been thought that the highest regard for the public health required that the patient be not informed of the drugs his physician is prescribing for him; otherwise he might take the same drugs in another case where changed or different conditions contraindicated them.

Page 11, lines 7 and 8: If the hypodermic syringe provision is eliminated, strike out the words "or articles."

Page 11, line 12: After the word "person" insert the words "or to nurse under the supervision of a physician, dentist, or veterinary surgeon registered under this act." This amendment will not be necessary if the hypodermic syringe provision is stricken out of the act.

Page 11, line 13: If the hypodermic syringe provision is not stricken out of the act, insert the words "or occupation" after the word "employment."

Page 11, lines 14 and 18: If the hypodermic syringe provision is not stricken out, insert the words "or articles" after the word "drugs."

All of which is respectfully submitted.

THE NATIONAL DRUG TRADE CONFERENCE,
By CHARLES M. WOODRUFF, *Secretary and of Counsel.*



